IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.81 OF 2006
WITH
CIVIL APPLICATION NO.88 OF 2006

Shri Katch Kadva Patidar Samaj Panvel ... Appellant

Vs.

Pen Co-operative Urban Bank Ltd. & Anr. ... Respondents

Mr. P.S. Dani for the Appellant.

Mr. G.S. Godbole for the respondent No.2.

CORAM : A.M. KHANWILKAR, J.

DATED : 8TH JUNE, 2006.

P.C.:-

1. Heard counsel for the parties. After hearing counsel for the parties, I was inclined to place this matter for final disposal. However, counsel for Respondent No.2 submits that instead of keeping the matter pending before this court, Respondent No.2 is willing to abide by the arrangement that he will not create any third party interest in the suit property or for that matter in the structure to be erected on the suit plot by him till the disposal of the suit pending before the trial court. Respondent No.2, however, submits through counsel that the construction of the structure may not be interdicted on condition that the same will be done by Respondent No.2 entirely at his risk,

costs and consequences and Respondent No.2 shall not claim any equity whatsoever at the later stage of the proceedings. Respondent No.2 undertakes through counsel before this Court that in the event the Appellant succeeds before the trail court and if the trial court so directs, Respondent No.2 shall forthwith remove the structure at his own costs and consequences. Respondent No.2 is present in the court and has instructed his advocate to make this statement. The arrangement suggested by Respondent No.2, in my opinion, is a fair arrangement. In the circumstances, instead of going into the contentions which have been raised in the present appeal, in my opinion, it is in the interest of justice to accept the offer given by Respondent No.2 and direct the trial court to decide the suit expeditiously in any case by end of December, 2006. Parties through their counsel assure before this court that they will extend full cooperation for early disposal of the suit and will not seek adjournment on any count whatsoever. The order passed by the trial court stands modified to the above extent. Appeal and accompanying civil application is disposed of in the above terms with no order as to costs.

(A.M. KHANWILKAR, J.)